

REMARKS

Claims 1-3, 5-7, 9-11 and 13-19 are pending in the present application. The Examiner rejected the pending claims under 35 U.S.C. § 102(b) as being anticipated by Wiser (US 6385596 B1) in a final Office Action dated September 10, 2007.

Applicants herewith submit a request for continued examination with this Amendment as the requisite submission. With entry of this amendment, Applicants amend claims 1, 5, 9, 13 and 19 and cancel claim 14 without prejudice. Reexamination and reconsideration are respectfully requested.

A user can conventionally obtain a preview version of a song, such as from the Internet. If he likes it, he can order a purchase version. This approach has many drawbacks. One drawback is that two versions of the song – the preview version and the purchase version – are sent to the user.

The present invention overcomes the drawbacks of the conventional approach by storing performance data, such as for a song, at the user terminal only once so and then commonly using the stored data whether the order is a preview or a purchase. This is achieved by storing the performance data with “reproduction limiting information” that limits the reproduction state of the content of the music performance. The reproduction limiting information, however, is read only when the order is for a preview. If the order is for a purchase, the reproduction limiting information is not read and performance data is reproduced without limitation. In this way, a single version of the performance data can be stored and then reproduced differently based on the order information. That is, once the performance data is stored by the user, it is never rewritten. Rather, the order information is changed to have the performance data read in full or in part.

Wiser creates two versions or audio images of a song – a full-length purchase version and a shortened clip or preview version – and stores them separately in a media data file. (See, e.g., Col. 3, lines 51-63 and Col. 7, lines 4-16.) The media data file is streamed to the user when he requests a preview or a purchase.

Applicants respectfully submit that a difference between the present invention and Wiser is that Wiser discloses two different versions of a song – a full-length version and a clip version – stored on the user's computer while the present invention stores once the performance data and simply changes the order information to obtain the desired version. A preview order results in the reproduction limiting information to be read so as to provide a preview version, and a purchase order results in the reproduction limiting information not being read. That is, the performance data is never rewritten, but rather commonly used for a preview version and a purchase version.

To emphasize this difference, Applicants have amended claim 1 to recite a transmitting section for sending a request to purchase or preview a content of a music performance. Claim 1 further recites a receiving section that receives song data comprising performance information and order information. Applicants have further amended claim 1 to recite a determining section that "determines whether the song data has already been stored in the storage section." Claim 1 has been further amended to recite a writing section that *rewrites the order information* when the song data has already been stored and writes the *song data* when the song data has not been stored. Support for this recitation can be found, without limitation, at paragraphs 0037-39 of the present application. Finally, claim 1 has been amended to recite that, when the writing section rewrites the order information from preview to purchase, the reproduction control section reproduces all of the performance data without reading the reproduction limiting information.

Applicants respectfully submit that Wiser does not disclose that the client terminal determines whether the song data has already been stored and then rewrites the order information when this determination is positive, in order to utilize the previously stored song data. Rather, as discussed above, Wiser simply sends two versions of the song to the user. Accordingly, Applicants respectfully submits that claim 1 is not anticipated by Wiser.

Claims 5, 9 ad 19 have been similarly amended and, thus, are not anticipated by Wiser for at least the reasons set forth above. Claims dependent on claims 1, 5, 9 and 19 are likewise not anticipated by Wiser for at least the reasons set forth above for the independent claims.

Claim 13 is directed to a server apparatus connectable to a song data reproduction apparatus. Claim 13 has been amended to recite that the server apparatus has a creating section that creates data for a preview or purchase request "wherein the same performance data is commonly used for both the data of the song containing the order information indicating the preview and the data of the song containing the order information indicating the purchase." Wiser does not disclose this recitation because, as discussed above, it discloses the use of two versions of the song.

Accordingly, Applicants respectfully submit that claim 13 is not anticipated by Wiser. Applicants also respectfully submit that claim 15, which depends from claim 13, is not anticipated by Wiser for at least these reasons.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, for any reason, the Examiner finds the application other than in condition for allowance, Applicants request that the Examiner contact the undersigned attorney at the Los Angeles telephone number (213) 892-5630 to discuss the steps necessary to place the application in condition for allowance.

In the unlikely event that the transmittal letter is separated from this document and the U.S. Patent and Trademark office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. **393032043200**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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